

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
EASTERN DIVISION**

THE RELIGIOUS SISTERS OF MERCY,  
*et al.*,

*Plaintiffs,*

v.

SYLVIA BURWELL, *et al.*,

*Defendants.*

No. 3:16-cv-00386-RRE-ARS

**Plaintiffs' Motion for Preliminary  
Injunction**

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Plaintiffs respectfully move this Court for a preliminary injunction pursuant to Federal Rule of Civil Procedure 65.

This lawsuit challenges a new Rule issued by the Department of Health and Human Services (“HHS”) entitled Nondiscrimination in Health Programs & Activities, 81 Fed. Reg. 31375, 31392, 31384 (May 18, 2016) (codified at 45 C.F.R. pt. 92). As set forth in Plaintiffs’ Memorandum in support of this motion, a preliminary injunction is required because the new Rule’s attempt to redefine “sex” violates the Administrative Procedure Act. Its attempt to force doctors to violate their religious beliefs violates the Religious Freedom Restoration Act. Its attempt to coerce the States violates the Spending Clause. Its attempt to control doctors’ speech violates the Free Speech Clause. And the Rule violates the Due Process Clause and the First Amendment for being hopelessly vague. Absent an injunction, the Rule will impose irreparable harm on Plaintiffs, the balance of harms heavily favors Plaintiffs, and an injunction is in the public interest.

A memorandum in support of this Motion satisfying the requirements of Local Rule 7.1(B) is filed contemporaneously with this Motion.

Dated: November 17, 2016

Respectfully submitted,

/s/ Luke W. Goodrich

Luke W. Goodrich

Stephanie H. Barclay

The Becket Fund for Religious Liberty

1200 New Hampshire Ave. NW

Suite 700

Washington, DC 20036

Telephone: (202) 349-7216

Facsimile: (202) 955-0090

lgoodrich@becketfund.org

**CERTIFICATE OF SERVICE**

I hereby certify that on November 17, 2016 the foregoing motion was served on Defendants via email in accordance with Defendants' consent to receive service via email.

/s/ Luke W. Goodrich  
Luke W. Goodrich